



HILLIARD MARTINEZ GONZALES
TRIAL ATTORNEYS

October 12, 2020

Via Electronic Service

The Honorable David S. Morales
United States District Judge
United States District Court
Southern District of Texas—Corpus Christi
1133 N. Shoreline Blvd.
Corpus Christi, Texas 78401

RE: Cause No. 2:19-CV-133, *Contreras v. City of Corpus Christi*

Dear Judge Morales,

Given the upcoming deadline to file Defendants' joint motion for joinder of necessary parties, Defendants wanted to provide notice to the Court informing the Court that Jose A. Contreras passed away on July 7, 2020.¹ Since Jose A. Contreras' death, counsel for Defendants has communicated with Plaintiffs' counsel and requested numerous times that Plaintiff's counsel inform the Court of Jose A. Contreras' passing. Defendants have not seen any communication to the Court regarding same and accordingly submit this letter.

Under Texas law, Jose A. Contreras' wrongful death claims do not survive his death. *Carter v. Van Meter*, 495 S.W.2d 583, 586 (Tex. Civ. App. 1973) ("[T]he courts of [Texas] have consistently held that since the right of action conferred by the Wrongful Death statutes is personal and for the sole benefit of the named beneficiary that such cause of action ceases to exist upon the death of such beneficiary."). Defendants intend to submit a Motion for Judgment on the Pleadings and/or Motion for Summary Judgment based upon Jose A. Contreras's recent death, and the inability of the Plaintiffs' claims to proceed. Defendants' willingness to proceed with joinder was premised on the basis that there was a viable wrongful death claim—which there is no longer. As Plaintiff does not currently represent the representative of Mr. Gerardo Contreras' estate, and there are no viable survival claims or wrongful death claims pending, Defendants would respectfully withdraw their previous Motion to Join Necessary Parties and respectfully request that the Court vacate its October 8, 2020 Order requesting an Order or Joint Motion to Appoint Jose A. Contreras as the representative of the estate.

Respectfully,

/s/ Marion M. Reilly
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¹ <https://www.tributearchive.com/obituaries/17044669/Jose-A-Contreras>